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SUBJECT: UK PASSES TEMPORARY TERRORIST ASSET-FREEZING BILL

REF: A. London 263

[B](#). London 221

[C](#). London 161

[1](#). (SBU) Summary: A temporary terrorist asset-freezing bill became law in the UK on February 10, having been fast-tracked through parliament under emergency procedures. The Terrorist Asset-Freezing (Temporary Provisions) Act 2010 was introduced following a Supreme Court ruling that two of HM Treasury's asset-freezing orders were unlawful. The new law validates the UK's terrorism orders, which the court had refused to stay pending new legislation. HMG intends to replace this temporary legislation, which expires December 31, with permanent legislation that will undergo greater parliamentary scrutiny. Prior to parliament's review of HMG's draft permanent legislation, USG should share lessons learned from U.S. legislation with HMG officials. End summary.

[2](#). (U) The UK parliament passed a Terrorist Asset-Freezing (Temporary Provisions) Bill which became law on February 10. This new legislation was fast-tracked through parliament under emergency procedures and allows HMG to maintain its asset-freezing regime while it introduces legislation for a new, permanent regime which complies with UN Resolution 1373. The legislation was enacted in response to the Supreme Court's January 27 ruling that two of HM Treasury's existing asset freeze orders were unlawful. HMG had used secondary legislation under the UK's 1946 United Nations Act (which is commonly used to implement the UK's UN obligations concerning international peace and security) to introduce two asset freeze orders in 2006 without a vote in parliament. The Court ruled that the UK's Terrorism (United Nations Measure) Order 2006 and the Al-Qaida and Taliban (United Nations Measure) Order 2006 were beyond the scope of the power provided under the 1946 Act, and subsequently quashed both orders. On February 4, the Supreme Court ruled not to grant HMG a stay before its judgment took effect.

[3](#). (U) Chancellor Darling presented the draft legislation in the House of Commons on February 5 and it passed all subsequent stages in the Commons on February 8. The bill moved to the House of Lords on February 8 and was passed, without amendment, on February 9. It received cross-party support throughout its passage but many Members of Parliament criticized HMG's failure to introduce primary legislation in 2006 which, they argued, would have put the asset-freezing orders on firm legislative footing. During the debate on the bill in the House of Commons, Mark Hoban, a Conservative shadow Treasury minister, said: "We agree with the Government that there needs to be proper controls in place to prevent terrorists and suspected terrorists from having access to their financial resources and the financial system. However, the Government needs to recognize that we are here tonight, pushing through this emergency retrospective legislation, because they failed, despite many warnings, to put the asset-freezing regime on to a proper legislative footing."

[4](#). (SBU) The new legislation is retroactive to the January 27 court ruling, which, HMT officials explained to us, was necessary to convince banks that they would have legal cover to maintain the asset-freezing regime which the court had voided. The bill protects

two further terrorism orders that relied on the same UN Act for their legal substance and were therefore also at risk. It will expire on December 31, by which time HMG intends to have passed permanent asset-freezing legislation in parliament. HMG has already published a draft Terrorist Asset-Freezing Bill.

15. (SBU) Comment: Passage of the temporary bill has provided HMG time to prepare its permanent primary legislation and strategy that will safeguard the UK's asset-freezing regime. This legislation will receive parliamentary consultation, vetting and debate, and will likely take into consideration some of the Supreme Court's due process considerations. Treasury officials have told us that the bill is unlikely to be debated during the current parliament, but will be a priority of the new parliament after elections, expected in May. USG should take advantage of the next few months to discuss with HMG aspects of U.S. legislation that are both most useful and problematic.

SUSMAN